

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MEMORANDUM ON STATUS OF COMPLAINT

Mark N. Fellenz
PLAINTIFF

V.

Enkata Technologies
DEFENDANT

CIVAL ACTION

NO. 04-10563 PBS

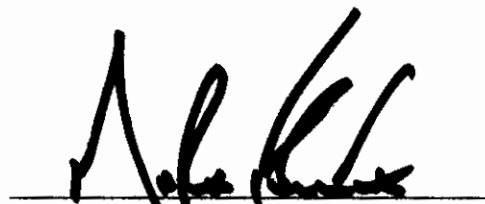
MEMORANDUM

1. This serves as notice to the Court that Plaintiff has relieved / removed Pro Bono Counsel as of January 14, 2006. Pro Bono Counsel (appointed by the Court for the purposes of Mediation only) has acted in an unprofessional manner and violated attorney – client privilege by sharing direct attorney – client communication with Defense Counsel without authorization to do so.
2. This is in addition to a long-standing situation where Pro Bono Counsel has failed since early November 2005 to represent Plaintiff's interests by inexplicably refusing to approach Defense Counsel on a point that was unarguably proposed, discussed, and agreed to in Mediation (but not reflected in the Settlement Agreement drafted to date). Pro Bono Counsel has been specifically instructed numerous times to approach Defense Counsel yet has failed to do so. This is despite the point involved being a point Pro Bono Counsel himself proposed during Mediation and then presented to Defense Counsel for agreement, all in the presence of the Mediator.

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3. As of this date, January 14, 2006, this matter has not been settled according to the terms set forth and agreed to in Mediation on October 17, 2005. Plaintiff has – for two months – voiced concern directly to Pro Bono Counsel to no avail, and no result of Plaintiff's actions has been observed whatsoever.
4. Plaintiff will make expeditious efforts over the next week to move this matter forward (and in a positive direction). In the meantime, Plaintiff asks of the Court to not consider this matter settled.
5. In closing, Plaintiff continues to prefer to settle this matter, only that it be per the terms proposed, discussed, and agreed to in Mediation, no more no less.
6. As a matter of last resort, and in the event and for whatever reason this matter is not expeditiously concluded as a result of Mediation, Plaintiff asks of the Court to not make ruling or decision that would limit Plaintiff's rights to return this matter to the Court for deliberation. Plaintiff has been bound in good-faith by – what's now become apparent – poor representation, a situation Plaintiff now makes attempt to fix by dismissing Pro Bono Counsel, thus opening the door to now directly approach Defense Counsel on the point Pro Bono Counsel introduced in Mediation but has failed to represent since early November 2005.

Signature

A handwritten signature in black ink, appearing to read 'Mark Fellenz', written over a horizontal line.

Name

MARK FELLENZ, PRO SE

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